

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HSBC BANK USA et al.

Plaintiffs,

v.

FRANK A. PODESTA,

Defendant.

Case No. C-12-02646-RMW

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
REMANDING**

[Re Docket No. 3]

The court adopts the report and recommendation of Magistrate Judge Lloyd. Dkt. No. 3. No objections were filed to the recommendation. Removal was not proper because there is no federal question. The underlying action is only based on state law claims; defenses and counterclaims asserted by the defendant under federal law are not sufficient. *See Vaden v. Discovery Bank*, 129 S. Ct. 1262, 1272 (2009). Therefore, the court remands the case to the Santa Cruz County Superior Court.

Dated: April 11, 2013

  
RONALD M. WHYTE  
United States District Judge